CITY OF SAN JOSÉ, CALIFORNIA Hearing Date/Agenda Number Department of Planning, Building and Code Enforcement P.C. 8/28/01 Item No. 4.c. 801 North First Street, Room 400 San José, California 95110-1795 File Number CP 01-106 Application Type STAFF REPORT Conditional Use Permit Council District 3 Planning Area Central Assessor's Parcel Number(s) 235-14-001 PROJECT DESCRIPTION Completed by: Akoni Danielsen Location: East side of North 7th Street, opposite the easterly terminus of Younger Street Gross Acreage: 0.52 Net Acreage: 0.52 Net Density: n/a Existing Zoning: LI Light Industrial Existing Use: Goodwill Industries industrial campus Proposed Zoning: No Change Proposed Use: construction and operation of a 2,880 sq.ft. child day care facility serving up to 54 children. **GENERAL PLAN** Completed by: AD Land Use/Transportation Diagram Designation Project Conformance: [] No [x] Yes Light Industrial [x] See Analysis and Recommendations SURROUNDING LAND USES AND ZONING Completed by: AD Industrial LI Light Industrial North: Industrial LI Light Industrial East: South: Industrial LI Light Industrial Multi-Family Residential R-M Multiple Residence West: **ENVIRONMENTAL STATUS** Completed by: AD [] Environmental Impact Report found complete [x] Exempt [] Negative Declaration circulated on [] Environmental Review Incomplete [] Negative Declaration adopted on **FILE HISTORY** Completed by: AD Annexation Title: Orchard No. 8 Date: 11/01/1951 PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION [x] Approval Date: Approved by: [] Approval with Conditions [x] Action [] Denial [] Recommendation [] Uphold Director's Decision APPLICANT/OWNER **DEVELOPER** Goodwill Industries Steve Frederick Hugh D. Barnett 2910 Stevens Creek Blvd. #109-541 1080 North 7th Street San Jose, CA 95128 San Jose, CA 95112

PUBLIC AGENCY COMMENTS RECEIVED	Completed by: AD
Department of Public Works	
See Conditions of Approval.	
Other Departments and Agencies	
See Conditions of Approval.	
GENERAL CORRESPONDENCE	
None received.	
ANALYSIS AND RECOMMENDATIONS	

BACKGROUND

Goodwill Industries is requesting a Conditional Use Permit (CUP) to allow construction and operation of a 2,880 sq.ft. child day care center serving up to 48 children on the existing Goodwill industrial campus located between North 7th and North 9th Streets north of East Hedding Street. The day care center is intended for employees of Goodwill Industries of Santa Clara County and would be operated as a SmartStart Center in conjunction with the City of San Jose Department of Parks, Recreation, and Neighborhood Services. A child day care center provides non-residential care, protection, and supervision for persons under 18 years of age for fewer than 24 hours per day not in association with a residential use.

The site proposed for development with the child day care center is currently used for surface parking and is accessed from an existing driveway on North 7th Street. The entire Goodwill campus, approximately 14 acres total, is located in the LI Light Industrial Zoning District and has a General Plan Land Use/Transportation Diagram designation of Light Industrial.

The project involves the construction of a new single-story structure to house the day care and associated landscaping, outdoor play area, parking and other site improvements. This Permit would also serve as a Site Development Permit for the site improvements.

The proposed child day care site is surrounded by Goodwill's warehouses to the north, east, and south. Multi-family dwellings are present to the west across North 7th Street.

PUBLIC OUTREACH

Notices of the Planning Commission public hearing were mailed to all owners and tenants of property within a 500-foot radius of the project site. Staff has been available to discuss the project with members of the public.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15332 (In-Fill Development) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This determination is made pursuant to CEQA in light of the following considerations:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

In conclusion, staff believes the project will not have a significant impact on the environment.

GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use/Transportation Diagram designation of Light Industrial. A stand-alone child day care center would not conform to this designation, but the proposed facility can be allowed as an incidental use supporting the primary industrial use of the property (Goodwill Industries), provided the facility is compatible with industrial land uses (existing and planned) on the subject site and surrounding properties (see Analysis below).

ANALYSIS

The primary issue is conformance with the Child Day Care Policy (attached).

Child Day Care Policy 6-14

It is not the intention of the Policy to deal with specific educational and per-child interior/exterior and play space requirements which are the purview of the State of California, Department of Social Services, Community Care, Licensing Division.

The Policy encourages new child day care centers in non-residential areas to provide care for children near employment centers, provided that the surrounding business or industrial activities would not adversely impact the facility. The surrounding industrial uses to the north, east, and south are those of Goodwill Industries. Goodwill seeks to place the facility on its campus to provide much-needed day care services for its employees. Goodwill has chosen a location that is separated a sufficient distance from its warehouses by large surface parking lots. Conflicts with non-Goodwill industrial uses have been minimized by placing the day care facility at 7th Street where it is surrounded by other Goodwill buildings and far removed from industrial uses on adjoining properties. The facility is not proposed near any hazardous materials nor facilities or industrial processes that would affect the health and safety of children. Additionally, perimeter landscaping and security fencing are provided in accordance with the Policy.

Parking has been provided in excess of one space per 6 children, per the Policy and minimum Zoning Code requirements. This ratio also accounts for employee parking. Ten spaces are required, and 26 are provided. The day care center takes advantage of available surplus parking on the Goodwill Industries campus.

Per the Policy, access to the facility will not impact traffic flow on 7th Street. Department of Public Works staff have reviewed the proposal for ingress, egress, and on-site circulation. Cars will access the site from an existing driveway and pick-up and drop-off children in a clearly designated area. Cars will not have to back onto the street nor will they stack up waiting to enter the site. The location and orientation of the facility should allow for smooth circulation to and from the site.

Conclusion

Based on the above analysis, staff concludes that the proposed project as conditioned conforms with the Zoning Code, is consistent with the Child Day Care Policy, has adequate parking and access, and will be compatible with surrounding land uses.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

- 1. This site has a designation of Light Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
- 2. The subject site is 0.52 acres and is part of the 14 acre Goodwill Industries industrial campus located in the LI Light Industrial Zoning District.
- 3. The proposed project complies with all applicable provisions of the Zoning Ordinance.

- 4. This permit would allow for construction and operation of a 2,880 sq.ft. child day care facility serving up to 54 children.
- 5. The child day care facility is accessed from an existing driveway on North 7th Street.
- 6. Surrounding land uses include the Goodwill Industries warehouses to the north, east, and south, and multi-family residential uses to the west across North 7th Street.
- 7. The proposed child day care facility requires 10 parking spaces and 26 on-site parking spaces are provided, in addition to the minimum required parking for existing Goodwill Industries uses on the site.
- 8. Site improvements consist of construction of a new single-story structure to house the day care and associated landscaping, outdoor play area, and parking.
- 9. The project was found to be exempt from further environmental review under the provisions of Section 15332 of CEQA.
- 10. The project site is an existing developed parcel with no natural habitat value. No wildlife are known to inhabit the site or are expected to be impacted by the proposed conversion of the warehouse to church use.
- 11. No trees would be impacted by the project.
- 12. The project site is not located within the Airport Land Use Commission referral boundary.
- 13. The site is not listed on any local, State, or Federal hazardous materials sites list. The project will not use, store, or transport any hazardous materials.
- 14. The day care facility is surrounded by existing Goodwill Industries warehouses. Surrounding industrial land uses, including Goodwill operations, could potentially expose the child day care facility to elevated noise levels; however, the facility will be soundproofed to shield the occupants from existing and future noise. Surrounding industrial land uses are also subject to the noise performance standards of the LI Heavy Industrial Zoning District, as found in Title 20, City of San Jose's Zoning Code.
- 15. All public utilities are available to serve the site.
- 16. The existing transportation system is adequate to accommodate project-generated traffic in conformance with the City of San Jose Transportation Level of Service Policy.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

- 1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
- 2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
- 3. The proposed project is in compliance with the California Environmental Quality Act.
- 4. The proposed project as conditioned complies with the applicable criteria of the Child Day Care Policy.
- 5. The proposed use, as conditioned, is compatible with the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

- 1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
- 2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
- 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

- 1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed**, **notarized**, **and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
- 2. **Site Development Permit.** This permit fulfills the requirement for a Site Development Permit.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

- 1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
- 2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "New Classroom for Goodwill Industries," dated, August 2002, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 24).
- 3. **Nuisance**. This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

- 4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
- 5. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San Jose Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San Jose Landscape and Irrigation Guidelines.
- 6. **Certification.** Pursuant to San Jose Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall b4e completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
- 7. **Lighting.** On-site lighting shall use low-pressure sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 20 feet above grade.
- 8. **Refuse.** All trash areas shall be effectively screened from view, covered and maintained in an orderly state. Trash areas shall be maintained in a manner to discourage illegal dumping.
- 9. **Outdoor Storage.** No outdoor storage is allowed/permitted unless designated on the approved plan set.
- 10. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
- 11. **Utilities.** All new on-site telephone and electrical service facilities shall be placed underground.
- 12. **Colors and Materials.** All building colors and materials are to be specified on the approved plan set.
- 13. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-01368) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
 - b. *Grading Permit.* A grading permit is required. An erosion control plan may be required with the grading plan. Grading plan shall incorporate the following:

- 1) Indicate the overland release path in arrows.
- 2) The release path must be paved.
- 3) On-site ponding must be less than one foot.
- 4) Finished floor elevations must be one foot higher than overland release elevation.
- c. *Electrical*. Locate and protect existing electrical conduit in the area of sidewalk construction. Painting and renumbering of existing electroliers along the project frontage may be required.
- d. *Street Improvements*. Remove and replace broken or uplifted sidewalk along project frontage. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
- e. *Landscape*. Install street trees within the public-right-of-way along the entire street frontage per City standards. Trees shall be installed in cut-outs at the back of curb. Contact the City Arborist at (408) 277-2756 for the designated street tree.
- f. *Sanitary*. Submit a sanitary sewer plan at improvement stage if construction of new laterals is proposed.
- 14. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans*. This permit file number, CP01-106, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card*. The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. Construction Conformance. A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

- 15. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- 16. **Fire Flow.** Required fire flow for the site is 3,000 gpm, or as otherwise approved in writing by the Fire Chief.
- 17. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
- 18. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
- 19. **Emergency Vehicle Access.** All buildings shall be within 150 feet from an approved emergency vehicle access road as per the Fire Code. All alternate means of access shall be approved by the Fire Department. Approved access road(s) and hydrant(s) shall be provided once wood framing is completed or provide an alternate means of water suppression subject to the approval of the Fire Department.
- 20. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE NO PARKING," shall be provided to the satisfaction of the Fire Chief.
- 21. **Hazardous Materials Storage.** This permit does not include any approval of facilities or areas on, within, or under the site to be used for the storage of hazardous, toxic, flammable, or combustible materials, and such facilities or areas are subject to review under a separate Site Development Permit.
- 22. **Number of patrons**. This facility shall be limited to a maximum of 54 children at any one time.
- 23. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.

24. **Hours of Operation**. The hours of operation of the day care center shall be limited to the hours of operation of the primary Goodwill Industries campus uses, provided the day care center shall not operate during the hours of 10:00 p.m. and 6:00 a.m.

CONDITIONS SUBSEQUENT

- 1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
- 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Building Division (2)
 Engineering Services
 Steve Frederick, 2910 Stevens Creek Blvd, Ste 109-541, San Jose, CA 95128

207-10/AD:jb